

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

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Doug Felker,

Plaintiff,

vs.

REPORT AND RECOMMENDATION

Social Security,

Defendant.

Civ. No. 09-0777 (MJD/RLE)

* * * * *

This matter came before the undersigned United States Magistrate Judge upon a general assignment, made in accordance with Title 28 U.S.C. §636(b)(1)(B), upon the Plaintiff's Application for leave to proceed in forma pauperis ("IFP"). The Plaintiff appears pro se, and in view of the fact that his Complaint has yet to be served, no appearance has been made by, or on behalf of, the Defendant.

On April 6, 2009, the Plaintiff commenced this action by the filing of a Complaint which requested judicial review of the Defendant's decision to deny his application for Disability Insurance Benefits. See, Docket No. 1. The Plaintiff did not pay any filing fee for this action but, instead, filed an Application seeking leave to proceed IFP. See, Docket No. 2. By Order, dated April 13, 2009, we denied the

Plaintiff's IFP Application because it did not include sufficient information to determine whether he was financially eligible for IFP status. See, Docket No. 3. However, we afforded the Plaintiff an opportunity to continue this action by either submitting an Amended IFP Application, or by paying the regular filing fee of \$350.00, within twenty (20) days of our Order. Id. The Order expressly advised the Plaintiff that his case would be subject to dismissal unless he complied with the stated requirements. Id.

The deadline for satisfying the requirements of this Court's Order has since expired, and the Plaintiff has failed to comply. Therefore, based upon the Plaintiff's failure to comply with our Order dated April 13, 2009, and his failure to prosecute this action, we recommend that his Complaint be dismissed, but without prejudice. See, Rule 41(b), Federal Rules of Civil Procedure (declaring that actions may be dismissed for failure to comply with Court Orders); see also, Link v. Wabash R.R. Co., 370 U.S. 626, 630-31 (1962)(recognizing that a Federal Court has the inherent authority to "manage [its] own affairs so as to achieve the orderly and expeditious disposition of cases"). We also recommend that the Plaintiff's Application to proceed IFP, be denied as moot.

NOW, THEREFORE, It is --

RECOMMENDED:

1. That the Plaintiff's Complaint [Docket No. 1] be dismissed, but without prejudice, for failure to comply with this Court's Order dated April 13, 2009, and for failure to prosecute.

2. That the Plaintiff's Application to proceed in forma pauperis [Docket No. 2] be denied, as moot.

BY THE COURT:

Dated: May 26, 2009

s/ Raymond L. Erickson

Raymond L. Erickson
CHIEF U.S. MAGISTRATE JUDGE

NOTICE

Pursuant to Rule 6(a), Federal Rules of Civil Procedure, D. Minn. LR1.1(f), and D. Minn. LR72.2(b), any party may object to this Report and Recommendation by filing with the Clerk of Court, and by serving upon all parties **by no later than June 12, 2009**, a writing which specifically identifies those portions of the Report to which objections are made and the bases of those objections. Failure to comply with this

procedure shall operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals.

If the consideration of the objections requires a review of a transcript of a Hearing, then the party making the objections shall timely order and file a complete transcript of that Hearing **by no later than June 12, 2009**, unless all interested parties stipulate that the District Court is not required by Title 28 U.S.C. §636 to review the transcript in order to resolve all of the objections made.